IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JORGE TOBAR, Plaintiff,	§ § §	
V.	§	CIVIL ACTION NO. 4:16-cv-2773
	§	
BROWN INTEGRITY, LLC, Defendant.	§ § §	JURY DEMANDED

PLAINTIFF'S ORIGINAL COMPLAINT

This is an action arising under the Fair Labor Standards Act of 1938 (FLSA), 52 Stat. 1060, as amended, 29 U.S.C. §201 *et seq.* (1994 ed. and Supp. III) ("FLSA"). This action is brought to recover unpaid overtime compensation, liquidated damages, and attorney's fees owed to Plaintiff Jorge Tobar by Defendant Brown Integrity, LLC.

Parties

1. Plaintiff Jorge Tobar ("Tobar") a former employee of Defendant, as that term is defined by the FLSA, and is represented by the undersigned. During his employment with the Defendant, the Plaintiff was, individually, directly engaged in interstate commerce.

2. Defendant Brown Integrity, LLC ("Brown") is a Texas corporation that employed the Plaintiff. With respect to Plaintiff, Brown is subject to the provisions of the FLSA, as it was at all relevant times or was part of an enterprise engaged in interstate commerce as defined by 29 U.S.C. § § 203(r) and (s). Defendant Brown may be served with process through its registered agent CT Corporation System at 1999 Bryan St., Suite 900, Dallas, Texas 75201 or wherever he may be found.

Jurisdiction and Venue

3. This Court has jurisdiction under the FLSA, and venue is proper pursuant to

28 U.S.C. § 1391(b), as Defendant and Plaintiff transacted business within this judicial district, and the events underlying this complaint occurred within this judicial district as well. At all times pertinent to this Complaint, Defendant was an enterprise engaged in interstate commerce, operating on the interstate highways, purchasing materials through commerce, transporting materials through commerce and on the interstate highways, conducting transactions through commerce, including the use of credit cards, phones and/or cell phones, electronic mail and the Internet. At all times pertinent to this Complaint, Defendant regularly owned and operated a business engaged in commerce or in the production of goods for commerce as defined by §3(r) and 3(s) of the Act, 29 U.S.C. §2013(r) and 203(s). Additionally, Plaintiff was individually engaged in commerce and his work was essential to Defendant's business. Venue is proper pursuant to 28 U.S.C. § 1391(b), because Defendant and Plaintiff transacted business within this judicial district and the events underlying this complaint occurred within this judicial district. Upon information and belief, Defendant conducted sufficient business to exceed an annual gross volume of sales of at least $500,000 (exclusive of excise taxes) based upon the volume of business.

Factual Allegations

4. Plaintiff Jorge Tobar worked for Defendant from October of 2013 until October of 2015 as a Supervisor. His duties included, but were not limited to, supervising employees, assembling equipment, operating equipment, and various field duties. Plaintiff worked at various locations, as assigned by Defendant. Plaintiff was provided with all of the necessary tools, as well as the instructions needed to fulfill his job duties.

5. Plaintiff was a non-exempt employee. Despite his non-exempt status, however, Tobar was paid on a salary basis and a day rate for all hours worked in the field, but was not ever paid an overtime premium for hours worked over 40 in a work week.

6. At all times relevant hereto, the Defendant knew of, approved of, and benefited from Plaintiff's regular and overtime work.

7. Defendant's actions were willful and in blatant disregard for Plaintiff's federally protected rights.

8. Defendant is liable to Plaintiff under the FLSA for all unpaid overtime compensation for his tenure with Defendant as well for liquidated damages, attorney's fees, out of pocket expenses and costs of Court.

CAUSES OF ACTION

Violation of the FLSA – Failure to Pay Overtime Wages Owed

9. Based on the foregoing, Defendant violated the FLSA by failing to properly compensate Plaintiff for work performed in the employ of the Defendant.

10. Plaintiff has suffered damages as a direct result of Defendant's illegal actions.

11. Defendant is liable to Plaintiff for all unpaid overtime compensation, liquidated damages, attorney's fees and costs of Court under the FLSA for work performed during time worked in excess of 40 hours per work week, for the three-year period preceding the filing of this lawsuit.

Jury Demand

12. Plaintiff demands a trial by jury on all claims he has asserted herein.

Prayer for Relief

WHEREFORE, Plaintiff demands:

1. Judgment against Defendant for an amount equal to Plaintiff's unpaid overtime wages at the applicable rates;
2. Judgment against Defendant that its violations of the FLSA were willful;
3. An equal amount to the actual damages as liquidated damages;
4. To the extent that liquidated damages are not awarded, an award of prejudgment interest;

5. All costs and attorney's fees incurred prosecuting these claims;
6. Leave to amend to add claims under applicable state laws; and
7. For such further relief as the Court deems just and equitable.

Respectfully Submitted,

/s/ Josef F. Buenker

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